

Notice of Allowability

Application No.

10/502,083

Examiner

Mohammad Meah

Applicant(s)

LERCHL ET AL.

Art Unit

1652

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 06/05/06.
2. ☒ The allowed claim(s) is/are 2-4, 6-11, 22-25.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|---|---|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892) | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6. <input type="checkbox"/> Interview Summary (PTO-413),
Paper No./Mail Date _____ |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____ | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit
of Biological Material | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9. <input checked="" type="checkbox"/> Other <u>abstract</u> . |

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given by Zhun Lu with Telephone on 08/07/2006.

EXAMINER'S AMENDMENT

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Cancel claims 5, 12-21.

In claim 1 (C) line 2, replace --least 50% homology with the amino acid sequences -- with- - least 95% homology with the amino acid sequence - -- .

In claim 9 line 1, replace - -An organism- - with-- An isolated host cell--.

In claim 9 (C) line 2, replace --least 50% homology with the amino acid sequences -- with- - least 95% homology with the amino acid sequence - --.

Rewrite claim 10 as: The isolated host cell of claim 9, wherein the host cell is a microorganism, a nonhuman cell or a plant cell.

Rewrite claim 10 as: The isolated host cell of claim 9, wherein the host cell is a transgenic plant cell.

Art Unit: 1652

Rewrite the abstract as (one paragraph) written below:

ABSTRACT

The invention relates to a novel elongase gene with the sequence SEQ ID NO: 1 or its homologs, derivatives or analogs, to a gene construct comprising this gene or its homologs, derivatives and analogs, and to its use. The invention also relates to vectors or organisms comprising an elongase gene with the sequence SEQ ID No: 1 or its homologs, derivatives or analogs.

Furthermore, the invention relates to a process for the preparation of polyunsaturated fatty acids and to a process for introducing DNA into organisms which produce large amounts of oils and, in particular, oils with a high content of unsaturated fatty acids. Moreover, the invention relates to an oil and/or a fatty acid preparation with a higher content of polyunsaturated fatty acids with at least two double bonds and/or a triacylglycerol preparation with a higher content of polyunsaturated fatty acids with at least two double bonds.

Art Unit: 1652

The following is an examiner's statement of reasons for allowance:

Applicant has isolated a novel DNA of SEQ ID NO: 1 encoding elongase of SEQ ID NO: 2.

As such the claimed polynucleotide, vector and host cell expressed with the novel polynucleotide of SEQ ID NO:1 is novel and non-obvious.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mohammad Meah whose telephone number is 571-272-1261. The examiner can normally be reached on 8:30-5PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ponnathapu Achutamurthy can be reached on 571-272-0928. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Mohammad Younus Meah, PhD
Examiner, Art Unit 1652
Recombinant Enzymes, 3C31 Remsen Bld
400 Dulany Street, Alexandria, VA 22314
Telephone: 517-272-1261



PONNATHAPU ACHUTAMURTHY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1800